IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO.322 OF 2005
In
SPECIAL CIVIL APPLICATION NO.85 OF 2001
With
CIVIL APPLICATION NO.4607 OF 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VINODBHAI SHANKARLAL PATEL - Appellant(s)
Versus
DISTRICT DEVELOPMENT OFFICER & 1 – Respondent (s)

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Appearance :
MS. ROOPAL R. PATEL for Appellant.
MR. H.S. MUNSHAW for Respondent No(s).: 1,2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 08/08/2005

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Present is an appeal against the *ex parte* judgement passed in Special Civil Application No.85 of 2001 on 15th March, 2001. By the said judgement, the learned single Judge had set aside the award made by the Labour Court in favour of the workman. The appeal was filed with a delay of 437 days. In support of the application seeking condonation of delay, the appellant had submitted that after service of the notice, he could not decide as to what was to be done in the matter in absence of the legal knowledge and he, being poverty stricken, could not engage a counsel nor could remain in attendance before the learned single Judge.

2. These submissions made by the appellant were taken to be good enough for constituting a sufficient cause for condonation of delay. If by a judicial finding, the Court has observed that this would constitute a sufficient cause for condonation of delay, then, the very same finding will have to be recorded for his non-appearance before the learned single Judge.

3. For the reasons stated above, the appeal is allowed. The judgement delivered by the learned single Judge is set aside. The matter is remanded to the single Bench for hearing the

parties in accordance with law. The parties may appear before the learned single Judge on 19th September, 2005 and may make a request to the learned single Judge for early hearing. Rule is made absolute. No costs.

4. Consequently, Civil Application No.4607 of 2002 is disposed of.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.***]

*kamlesh**